Risk Factors Comparison 2023-11-16 to 2022-11-10 Form: 10-K

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Investing in our common stock involves a high degree of risk. You should carefully consider the following risk factors, as well as other information in this Form 10- K, before deciding whether to invest in shares of our common stock. The occurrence of any of the events described below could harm our business, financial condition, results of operations, and growth prospects. In such an event, the trading price of our common stock may decline, and you may lose all or part of your investment. Business and Market Risks A number of conditions that affect demand for the homes we sell are outside of our control. Many of these conditions, such as interest rates, inflation, employment levels, wage levels and governmental actions also impact consumer confidence, upon which our business is highly dependent. Changes in national and regional economic conditions, as well as local economic conditions where we conduct our operations, may result in more caution on the part of homebuyers and, consequently, fewer home purchases. ~~While housing market conditions remained robust and demand~~ **Demand** ~~remained strong~~ during the ~~first~~ **second** half of fiscal 2022 ~~, during the second half of fiscal~~ **was negatively impacted by steep increases in interest rates from January to November** 2022, **as well as** ~~housing demand weakened due to a sharp increase in mortgage rates, the substantial increase in home prices experienced over the past two years, significant~~ inflation ~~in the broader~~ **, an uncertain** ~~economy~~ **economic outlook** ~~, stock market volatility~~ , and other macro- economic conditions **. Due to these factors, housing market conditions during the first quarter of fiscal 2023 were challenging. Since the second quarter of fiscal 2023, interest rates have been less volatile, allowing homebuyers time to absorb the higher rate environment. As a result, demand and homebuyer traffic improved, and the housing market began to stabilize. Towards the end of September 2023, interest rates began to rise again with mortgage interest rates reaching a two- decade high** , which **further strained affordability** ~~have negatively impacted buyer sentiment and behavior~~ . These economic uncertainties are out of our control and affect buyer sentiment and behavior, as well as the affordability of, and demand for, the homes we sell. These conditions also impact consumer confidence, upon which our business is highly dependent. Adverse changes in any of these conditions could decrease demand and pricing for our homes or result in customer cancellations of pending contracts, which could adversely affect the number of home sales we make or reduce home prices, either of which could result in a decrease in our revenues and earnings and adversely affect our financial condition and results of operations. During periods of downturn in the homebuilding industry, housing markets across the United States may experience an oversupply of both new and resale home inventory, an increase in foreclosures, reduced levels of consumer demand for new homes, increased cancellation rates, aggressive price competition among homebuilders, and increased incentives for home sales. In the event of a downturn, we would likely experience a material reduction in revenues and margins and our financial condition as well as our results of operations could be adversely affected. Because almost all of our customers require mortgage financing, **elevated mortgage interest rates for prolonged periods and further** increases in interest rates would likely negatively affect the affordability of the homes we sell. In addition, reductions in mortgage availability or increases in the effective costs of owning a home could prevent our customers from buying our homes and adversely affect our business and financial results. Substantially all of the purchasers of our homes finance their acquisition with mortgage financing. Over the past year, the Federal Reserve raised interest rates multiple times in response to concerns about inflation and economic uncertainties, and it may raise them again. Increases in interest rates increase the costs of owning a home **,** ~~and have~~ adversely ~~affected~~ -- **affect** the purchasing power of consumers **,** and lower demand for the homes we sell, which could result in a decrease in our revenues and earnings and adversely affect our financial condition. The availability of mortgage financing is significantly influenced by governmental entities such as the Federal Housing Administration, Veteran' s Administration, and Government National Mortgage Association and government- sponsored enterprises known as Fannie Mae and Freddie Mac. If these or other lenders' borrowing standards are tightened and / or the federal government were to reduce or eliminate these mortgage loan programs (including due to any failure of lawmakers to agree on a budget or appropriation legislation to fund relevant programs or operations), it would likely make it more difficult for our customers to obtain acceptable financing, which would, in turn, adversely affect our business, financial condition and results of operations. Mortgage interest ~~expense~~ **expenses** and real estate taxes represent significant costs of homeownership. Therefore, when there are changes in federal or state income tax laws that eliminate or substantially limit the income tax deductions relating to these expenses, the after- tax costs of owning a new home can increase significantly. For example, the Tax Cuts and Jobs Act, which was enacted in December 2017, includes provisions that impose significant limitations with respect to these income tax deductions. Under this legislation, through the end of 2025, the annual deduction for real estate property taxes and state and local income or sales taxes has been limited to a combined amount of $ 10, 000 ($ 5, 000 in the case of a separate return filed by a married individual). In addition, through the end of 2025, the deduction for mortgage interest will generally only be available with respect to acquisition indebtedness that does not exceed $ 750, 000 ($ 375, 000 in the case of a separate return filed by a married individual). ~~There also continues to be meaningful discussion around certain proposed tax legislation contemplated by the Biden administration, including increasing the U. S. corporate tax rate, as well as long standing discussions within the Organization for Economic Co- operation and Development (" OECD "). It is unclear at this time which of these proposals, if any, may be enacted and how these various provisions will interact on a local, country and global scale. We believe changes such as these adversely impact or, in case of the proposed tax legislation, could adversely impact the demand for and sales prices of homes in certain markets, including parts of California, Maryland, and Virginia, and therefore could adversely affect our business, financial condition and results of operations.~~ If we are unsuccessful in competing against our competitors, our market share could decline or our growth could be impeded and, as a result, our financial condition and results of operations could suffer. Competition in the homebuilding industry is intense, and there are relatively low barriers to entry into our business. Increased competition could hurt our business, as it could prevent us from acquiring attractive parcels of land on which to build homes or make such acquisitions more expensive, hinder our market share expansion and lead to pricing pressures on our homes that may adversely impact our margins and revenues. If we are unable to successfully compete, our financial results could suffer and our ability to service our debt could be adversely affected. Our competitors may independently develop land and construct housing units that are superior or substantially similar to our products. Furthermore, many of our competitors have substantially greater financial resources, less leverage, and lower costs of funds and operations than we do. Many of these competitors also have longstanding relationships with subcontractors and suppliers in the markets in which we operate. We currently build in several of the top markets in the nation and, therefore, we expect to continue to face additional competition from new entrants into our markets. Our business could be materially and adversely disrupted by an epidemic or pandemic (such as COVID- 19), or similar public threat, or fear of such an event, and the measures that international, federal, state and local governments, agencies, law enforcement and / or health authorities implement to address it. An epidemic, pandemic, or similar serious public health issue, and the measures undertaken by governmental authorities to address it, could significantly disrupt or prevent us from operating our business in the ordinary course for an extended period, and thereby, and / or along with any associated economic and / or social instability or distress, have a material adverse impact on our consolidated financial statements. For example, our business and operations were significantly impacted by the COVID- 19 pandemic and the corresponding actions taken by governmental authorities. ~~While general economic conditions have improved and our operations have since normalized, we are uncertain of the potential full magnitude or duration of the business and economic impacts from the unprecedented public health effort to contain and combat the spread of COVID- 19, which include, among other things, significant volatility in financial markets and a sharp decrease in the value of equity securities, including our common stock.~~ If COVID- 19 or another public health emergency were to reemerge, we could again experience material disruptions in our operating environment, impairing our ability to sell and build homes in a typical manner, as occurred in during our 2020 fiscal year, or at all, due to, among other things, increased costs or decreased supply of building materials, reduced availability of subcontractors, employees, and other talent, as a result of infections or recommended self- quarantining, or governmental mandates to direct production activities to support public health efforts. This could result in our recognizing charges in future periods, which may be material, for inventory impairments or land option agreement abandonments, or both, related to our inventory assets. Should the adverse impacts described above (or others that are currently unknown) occur, whether individually or collectively, we would expect to experience, among other things, decreases in our net new orders, home closings, average selling prices, revenues, and profitability, and such impacts could be material to our consolidated financial statements. Along with an increase in cancellations of home purchase contracts, if there are prolonged government restrictions on our business and our customers, and / or an extended economic recession, we could be unable to produce revenues and cash flows sufficient to conduct our business; meet the terms of our covenants and other requirements under the ~~Secured~~ **Unsecured** Revolving Credit Facility, our senior notes, and the related indenture, and / or mortgages and land contracts due to land sellers and other loans; service our outstanding debt. Such a circumstance could, among other things, exhaust our available liquidity (and ability to access liquidity sources) and / or trigger an acceleration to pay a significant portion or all of our then- outstanding debt obligations, which we may be unable to do ~~. The market value of our land and / or homes may decline, leading to impairments or other charges and reduced profitability. We regularly acquire land for replacement and expansion of our land inventory within our existing and new markets. The market value of land, building lots and housing inventories can fluctuate significantly as a result of changing market conditions. While we employ measures to manage inventory risk, we may not be able to adequately insulate our operations from a severe drop in inventory values. As a result, we may incur impairment charges or have to sell land at a loss. For example, during the second quarter of fiscal 2019, we recognized impairments of $ 110. 0 million on projects in progress and $ 38. 6 million on land held for sale. In addition, when market conditions are such that land values are not appreciating, option agreements previously entered into may become less desirable, at which time we may elect to forgo deposits and pre- acquisition costs and terminate the agreements, which could result in abandonment charges. Material impairment charges, abandonment charges or other write- downs of assets could adversely affect our financial condition and results of operations. Negative publicity or poor relations with the residents of our communities could negatively impact sales, which could cause our revenues or results of operations to decline. Unfavorable media related to our industry, company, brands, marketing, personnel, operations, business performance, or prospects may affect our stock price and the performance of our business, regardless of its accuracy or inaccuracy. Our success in maintaining, extending and expanding our brand image depends on our ability to adapt to a rapidly changing media environment. Adverse publicity or negative commentary on social media outlets could hurt operating results, as consumers might avoid or protest brands that receive bad press or negative reviews. Negative publicity may result in a decrease in our operating results. In addition, residents of communities we develop may look to us to resolve issues or disputes that may arise in connection with the operation or development of their communities. Efforts made by us to resolve these issues or disputes could be deemed unsatisfactory by the affected residents, and subsequent actions by these residents could adversely affect sales or our reputation~~ . Operational, Legal and Regulatory Risks Inflation may adversely affect us by increasing costs beyond what we can recover through price increases. Inflation can adversely affect us by increasing costs of land, materials, and labor. In addition, inflation is often accompanied by higher interest rates. In an inflationary environment, depending on homebuilding industry and other economic conditions, we may be unable to raise home prices enough to keep up with the rate of inflation, which would reduce our profit margins. Given the inflation ~~rates in fiscal~~ **over the past two** ~~year~~ **years** ~~2022~~ , we have experienced, and **may** continue to experience, increases in the prices of land, labor, and materials. An increase in cancellation rates will negatively impact our business and could lead to imprecise estimates related to homes to be delivered in the future (backlog). Our backlog reflects the number and value of homes for which we have entered into a sales contract with a customer but have not yet delivered the home. Although these sales contracts typically require a cash deposit and do not make the sale contingent on the sale of the customer' s existing home, in some cases a customer may cancel the contract and receive a complete or partial refund of the deposit as a result of local laws or as a matter of our business practices. If industry or economic conditions deteriorate or if mortgage financing becomes less accessible, more homebuyers may have an incentive to cancel their contracts with us, even where they might be entitled to no refund or only a partial refund, rather than complete the purchase. For example, ~~the~~ cancellation ~~rate~~ **rates** increased significantly from the low teens in the first half of ~~the~~ fiscal year **2022** to 17. 0 % ~~in fiscal third quarter~~ and 32. 8 % in **the third and fourth quarters of** fiscal **2022, respectively. Cancellation rates remained elevated through the first quarter of fiscal year 2023, but have since decreased (16. 5 % in the** fourth quarter ~~, resulting in~~ **of fiscal 2023) and returned to** a ~~cancellation~~ **level within our normal historical range as buyers began to adjust to the higher** rate **environment** ~~for the year ended September 30, 2022 was 17~~ . **Nevertheless** ~~6 %~~ , ~~up from 11. 1 % in the prior year. Significant~~ **significant** cancellations have had, and could **again in the future** have, a material adverse effect on our business as a result of lost sales revenue and the accumulation of unsold housing inventory. It is important to note that both backlog and cancellation metrics are operational, rather than accounting data, and should be used only as a general gauge to evaluate our performance. There is an inherent imprecision in these metrics based on an evaluation of qualitative factors during the transaction cycle. Supply shortages and other risks related to the demand for skilled labor and building materials could increase costs, delay deliveries and could adversely affect our financial condition and results of operations. The residential construction industry experiences price fluctuations and shortages in labor and materials from time to time. Shortages in labor can be due to shortages in qualified trades people, changes in immigration laws and trends in labor migration, lack of availability of adequate utility infrastructure and services, or our need to rely on local subcontractors who may not be adequately capitalized or insured. Shortages of materials can be due to certain disruptions, such as natural disasters, civil or political unrest and conflicts ~~(such as the ongoing conflict between Russia and Ukraine)~~ , trade disputes, difficulties in production or delivery or health issues like the COVID- 19 pandemic. Labor and material shortages can be more severe during periods of strong demand for housing or during periods in which the markets where we operate experience natural disasters such as hurricanes or flooding as discussed more fully below. Pricing for labor and materials can be affected by the factors discussed above, changes in energy prices, and various other national, regional, and local economic and political factors. For example, government imposed tariffs and trade regulations on imported building supplies have, and in the future could have, significant impacts on the cost to construct our homes. Such measures limit our ability to control costs, which if we are not able to successfully offset such increased costs through higher sales prices, could adversely affect our margins on the homes we build. Our long- term success depends on our ability to acquire finished lots and undeveloped land suitable for residential homebuilding at reasonable prices, in accordance with our land investment criteria. The homebuilding industry is highly competitive for suitable land and the risk inherent in purchasing and developing land increases as consumer demand for housing increases. The availability of finished and partially finished developed lots and undeveloped land for purchase that meet our investment criteria depends on a number of factors outside our control, including land availability in general, competition with other homebuilders and land buyers, inflation in land prices, zoning, allowable housing density, the ability to obtain building permits, and other regulatory requirements. Should suitable lots or land become less available, the number of homes we may be able to build and sell could be reduced, and the cost of land could increase, perhaps substantially, which could adversely impact our financial condition and results of operations. As competition for suitable land increases, the cost of acquiring both finished and undeveloped lots and the cost of developing owned land could rise, and the availability of suitable land at acceptable prices may decline, which could adversely impact our financial results. The availability of suitable land assets could also affect the success of our land acquisition strategy and ultimately our long- term strategic goals by impacting our ability to increase the number of actively selling communities, grow our revenues and margins and achieve or maintain profitability. Reduced numbers of home sales extend the time it takes us to recover land purchase and property development costs, negatively impacting profitability and our results of operations. We incur many costs even before we begin to build homes in a community. Depending on the stage of development a land parcel is in when we acquire it, these may include costs of preparing land, finishing and entitling lots, installing roads, sewers, water systems, and other utilities, taxes, and other costs related to ownership of the land on which we plan to build homes. If the rate at which we sell and deliver homes slows, or if we delay the opening of new home communities, we may incur additional pre- construction costs, and it may take longer for us to recover our costs, which could adversely affect our profitability and results of operations. We could experience a reduction in home...... may incur contractual penalties and fees. Natural disasters and other related events could result in delays in land development or home construction, increase our costs or decrease demand in the impacted areas. The climates and geology of many of the states in which we operate ~~, including California, Florida, Georgia, North Carolina, South Carolina, Tennessee, Texas and certain mid-Atlantic states,~~ present increased risks of natural disasters. To the extent that hurricanes, tornadoes, severe storms, heavy or prolonged precipitation, earthquakes, droughts, floods, wildfires or other natural disasters or similar events occur, our homes under construction or our building lots in such states could be damaged or destroyed, which may result in losses exceeding our insurance coverage. For example, in ~~fiscal 2017 and 2018, Hurricanes Harvey, Irma and Florence disrupted our operations in Texas, Florida, North Carolina and South Carolina, which resulted in temporary reductions in sales and closings. In~~ fiscal 2022, Hurricane Ian disrupted our operations in Florida, which resulted in temporary reductions in sales and closings. Natural disasters can also lead to increased competition for subcontractors, which can delay our progress even after the event has concluded. Additionally, and as discussed above, increased competition for skilled labor can lead to cost overruns, as we may have to incentivize the impacted region' s limited trade base to work on our homes. Finally, natural disasters and other related events may also temporarily impact demand, as buyers are not as willing to shop for new homes during or after the event. These risks could adversely affect our business, financial condition, ~~and results of operations.~~ Global economic and political instability and conflicts **,such as the conflict between Russia and Ukraine,** could adversely affect our business,financial condition or results of operations.Our business could be adversely affected by unstable economic and political conditions within the United States and foreign jurisdictions and geopolitical conflicts,such as the conflict between Russia and Ukraine ~~and the conflict in Gaza~~ .While we do not have any customer or direct supplier relationships in **either country** ~~Russia,Ukraine,or the Middle East~~ ,the current military ~~conflicts~~ **conflict** ,and related sanctions,as well as export controls or actions that may be initiated by nations (e.g.,potential cyberattacks,disruption of energy flows,etc.) and other potential uncertainties could adversely affect our supply chain by causing shortages or increases in costs for materials necessary to construct homes and / or increases to the price of gasoline and other fuels.In addition,such events could cause higher interest rates,inflation or general economic uncertainty,which could negatively impact our business partners,employees or customers,or otherwise adversely impact our business.Terrorist attacks or acts of war against the United States or increased domestic or international instability could have an adverse effect on our operations.Adverse developments in the war on terrorism,terrorist attacks against the United States or any outbreak or escalation of hostilities between the United States and / or any foreign power may cause disruption to the economy,our Company,our employees and our customers,which could negatively impact our financial **condition and results of operations.** and results of operations. We may incur additional operating expenses or longer construction cycle times due to compliance programs or fines, penalties and remediation costs pertaining to environmental regulations within our markets. Additionally, any violations of such regulations could harm our reputation, thereby negatively impacting our financial condition and results of operations. We are subject to a variety of local, state and federal statutes, ordinances, rules and regulations concerning the protection of health and the environment. The particular environmental laws that apply to any given community vary greatly according to the location of the community site, the site' s environmental conditions and the present and former use of the site. Environmental laws may result in delays, may cause us to implement time consuming and expensive compliance programs and may prohibit or severely restrict development in certain environmentally sensitive regions or areas. From time to time, the United States Environmental Protection Agency (EPA) and similar federal or state agencies review homebuilders' compliance with environmental laws and may levy fines and penalties for failure to strictly comply with applicable environmental laws or impose additional requirements for future compliance as a result of past failures. Any such actions taken with respect to us may increase our costs or harm our reputation. Further, we expect that increasingly stringent requirements will be imposed on homebuilders in the future **. For example, in November 2022, pursuant to the Global Warming Solutions Act of 2006 (AB32), the California Air Resources Board released a final scoping plan that, among other things, proposes to eliminate the installation of natural gas- powered appliances in favor of electric appliances in new residential construction effective in 2026. Further, in August 2021, the California Energy Commission (“ CEC ”) adopted updates to California’ s energy code that, among other things, establish electric- ready requirements for electric heating, cooking and vehicle charging effective January 1, 2023 for new permit applications** . Environmental regulations can also have an adverse impact on the availability and price of certain raw materials such as lumber. Our communities in California are especially susceptible to restrictive government regulations and environmental laws, particularly surrounding water usage due to continuing drought conditions within that region. In addition, there is a growing concern from advocacy groups and the general public that the emissions of greenhouse gases and other human activities have caused, or will cause, significant changes in weather patterns and temperatures and the frequency and severity of natural disasters. Government mandates, standards and regulations enacted in response to these projected climate change impacts could result in restrictions on land development in certain areas or increased energy, transportation, and raw material costs that may adversely affect our financial condition and results of operations. We are subject to extensive government regulation, which could cause us to incur significant liabilities or restrict our business activities. Regulatory requirements could cause us to incur significant liabilities and operating expenses and could restrict our business activities. We are subject to local, state and federal statutes and rules regulating, among other things, certain developmental matters, building and site design, the availability of water and matters concerning the protection of health, safety and the environment. Our operating costs may be increased by governmental regulations, such as building permit allocation ordinances and impact and other fees and taxes, which may be imposed to defray the cost of providing certain governmental services and improvements. Other governmental regulations, such as building moratoriums and “ no growth ” or “ slow growth ” initiatives, which may be adopted in communities that have developed rapidly, may cause delays in new home communities or otherwise restrict our business activities, resulting in reductions in our revenues. Any delay or refusal from government agencies to grant us necessary licenses, permits and approvals could have an adverse effect on our financial condition and results of operations. We may be subject to significant potential liabilities as a result of construction defect, product liability and warranty claims made against us. As a homebuilder, we have been, and continue to be, subject to construction defect, product liability and home warranty claims, including moisture intrusion and related claims, arising in the ordinary course of business. These claims are common to the homebuilding industry and can be costly. With respect to certain general liability exposures, including construction defect claims, product liability claims and related claims, assessment of claims and the related liability and reserve estimation process is highly judgmental due to the complex nature of these exposures and unique circumstances of each claim. Furthermore, once claims are asserted for construction defects, it can be difficult to determine the extent to which the assertion of these claims will expand geographically. Although we have obtained insurance for construction defect claims, such policies may not be available or adequate to cover liability for damages, the cost of repairs and / or the expense of litigation. Current and future claims may arise out of events or circumstances not covered by insurance and not subject to effective indemnification agreements with our subcontractors. At any given time, we may be the subject of civil litigation that could require us to pay substantial damages or could otherwise have a material adverse effect on us. While no current material lawsuits are pending, we may be subject to civil litigation regarding claims made by homebuyers. We cannot predict or determine the timing or final outcome of such lawsuits, or the effect that any adverse determinations the lawsuits may have on us. An unfavorable determination in any of the lawsuits could result in the payment by us of substantial monetary damages that may not be covered by insurance. Further, the legal costs associated with the lawsuits and the amount of time required to be spent by management and the Board of Directors on these matters, even if we are ultimately successful, could have a material adverse effect on our business, financial condition and results of operations. In addition to expenses incurred to defend the Company in these matters, under Delaware law and our bylaws, we may have an obligation to indemnify our current and former officers and directors in relation to these matters. We have obligations to advance legal fees and expenses to directors and certain officers. Our insurance carriers may seek to rescind or deny coverage with respect to such lawsuits, or we may not have sufficient coverage under our insurance policies. If the insurance companies are successful in rescinding or denying coverage, or if we do not have sufficient coverage under our policies, our business, financial condition and results of operations could be materially adversely affected. Our operating expenses could increase if we are required to pay higher insurance premiums or litigation costs for various claims, which could negatively impact our financial condition and results of operations. Additionally, our insurance policies may not offset our entire expense due to limitation in coverages, amounts payable under the policies or other related restrictions. The costs of insuring against construction defect, product liability and director and officer claims are substantial. Increasingly in recent years, lawsuits (including class action lawsuits) have been filed against builders, asserting claims of personal injury and property damage. Our insurance may not cover all of the claims, including personal injury claims, or such coverage may become prohibitively expensive. If we are not able to obtain adequate insurance against these claims, we may experience losses that could negatively impact our financial condition and results of operations, as well as our cash flows. Historically, builders have recovered from subcontractors and their insurance carriers a significant portion of the construction defect liabilities and costs of defense that the builders have incurred. However, insurance coverage available to subcontractors for construction defects is becoming increasingly expensive and the scope of coverage is restricted. If we cannot effectively recover from our subcontractors or their carriers, we may suffer even greater losses. A builder' s ability to recover against any available insurance policy depends upon the continued solvency and financial strength of the insurance carrier that issued the policy. Many of the states in which we build homes have lengthy statutes of limitations and / or repose applicable to claims for construction defects. To the extent that any carrier providing insurance coverage to us or our subcontractors becomes insolvent or experiences financial difficulty in the future, we may be unable to recover on those policies, thereby negatively impacting our financial condition and results of operations. We are dependent on the services of certain key employees and the loss of their services could hurt our business. Our future success depends upon our ability to attract, train and retain skilled personnel, including officers and directors. If we are unable to retain our key employees or attract, train or retain other skilled personnel in the future, it could hinder our business strategy and impose additional costs of identifying and training new individuals. Competition for qualified personnel in all of our operating markets, as well as within our corporate operations, is intense. Global economic and political instability and conflicts...... financial condition and results of operations. Information technology failures, cybersecurity breaches or data security breaches could harm our business. We use information technology and other computer resources to perform important operational and marketing activities and to maintain our business records. Certain of these resources are provided to us and / or maintained by third- party service providers pursuant to agreements that specify certain security and service level standards. Our computer systems, including our back- up systems and portable electronic devices, and those of our third- party providers, are subject to damage or interruption from power outages, computer and telecommunication failures, computer viruses, security breaches including malware and phishing, cyberattacks, natural disasters, usage errors by our employees or contractors, and other related risks. As part of our normal business activities, we collect and store certain confidential information, including information about employees, homebuyers, customers, vendors and suppliers. This information is entitled to protection under a number of regulatory regimes. We share some of this information with third parties who assist us with certain aspects of our business. A significant and extended disruption of or breach of security related to our computer systems and back- up systems may result in business disruption, damage our reputation and cause us to lose customers, sales and revenue, result in the unintended misappropriation of proprietary, personal and confidential information, and require us to incur significant expense to remediate or otherwise resolve these issues including financial obligations to third parties, fines, penalties, regulatory proceedings and private litigation with potentially large costs and other competitive disadvantages. While, to date, we have not had a significant cybersecurity breach or attack that had a material impact on our business or results of operations, there can be no assurance that our efforts to maintain the security and integrity of these types of IT networks and related systems will be effective or that attempted security breaches or disruptions would not be successful or damaging. Financial and Liquidity Risks Our access to capital and our ability to obtain additional financing could be affected by any downgrade of our credit ratings, as well as limitations in the capital markets or adverse credit market conditions. The Company' s credit rating and ratings on our senior notes and our current credit condition affect, among other things, our ability to access new capital, especially debt. Negative changes in these ratings may result in more stringent covenants and higher interest rates under the terms of any new debt. If our credit ratings are lowered or rating agencies issue adverse commentaries in the future, it could have a material adverse effect on our business, financial condition, results of operations and liquidity. In particular, a weakening of our financial condition, including a significant increase in our leverage or decrease in our profitability or cash flows, could adversely affect our ability to obtain necessary funds, result in a credit rating downgrade or change in outlook, or otherwise increase our cost of borrowing. Our Senior Notes, ~~Secured Revolving Credit Facility,~~ Senior Unsecured Revolving Credit Facility, letter of credit facilities and certain other debt impose significant restrictions and obligations on us. Restrictions on our ability to borrow could adversely affect our liquidity. In addition, our ~~substantial~~ indebtedness could adversely affect our financial condition, limit our growth and make it more difficult for us to satisfy our debt obligations. Our senior notes, revolving credit ~~facilities~~ **facility** , letter of credit facilities and certain other debt impose certain restrictions and obligations on us. Under certain of these instruments, we must comply with defined covenants that limit our ability to, among other things, incur additional indebtedness, engage in certain asset sales, make certain types of restricted payments, engage in transactions with affiliates and create liens on our assets. Failure to comply with certain of these covenants could result in an event of default under the applicable instrument. Any such event of default could negatively impact other covenants or lead to cross defaults under certain of our other debt agreements. There can be no assurance that we will be able to obtain any waivers or amendments that may become necessary in the event of a future default situation without significant additional cost or at all. Our ~~substantial~~ indebtedness could have important consequences to us and the holders of our securities, including, among other things: • causing us to be unable to satisfy our obligations under our debt agreements; • causing us to pay higher interest rates upon refinancing indebtedness if interest rates rise; • making us more vulnerable to adverse general economic and industry conditions; • making it difficult to fund future working capital, land purchases, acquisitions, capital expenditures, share repurchases, general corporate or other activities; and • causing us to be limited in our flexibility in planning for, or reacting to, changes in our business. In addition, subject to the restrictions of our existing debt instruments, we may incur additional indebtedness. If new debt is added to our current debt levels, the related risks that we now face could intensify. Our growth plans and our ability to make payments of principal or interest on, or to refinance, our indebtedness will depend on our future operating performance and our ability to enter into additional debt and / or equity financings. If we are unable to generate sufficient cash flows in the future to service our debt, we may be required to refinance all or a portion of our existing debt, to sell assets or to obtain additional financing. We may not be able to do any of the foregoing on terms acceptable to us, if at all. The tax benefits of our pre- ownership change net operating loss carryforwards and built- in losses were substantially limited since we experienced an " ownership change " as defined in Section 382 of the Internal Revenue Code, and portions of our deferred income tax asset have been written off since they were not fully realizable. Any subsequent ownership change, should it occur, could have a further impact on these tax attributes. Section 382 of the Internal Revenue Code contains rules that limit the ability of a company that undergoes an " ownership change, " which is generally defined as any change in ownership of more than 50 % of its common stock over a three- year period, to utilize its net operating loss carryforwards, tax credits and certain built- in losses or deductions, as of the ownership change date, that are recognized during the five- year period after the ownership change. These rules generally operate by focusing on changes in the ownership among shareholders owning, directly or indirectly, 5 % or more of the company' s common stock (including changes involving a shareholder becoming a 5 % shareholder) or any change in ownership arising from a new issuance of stock or share repurchases by the company. We currently have an immaterial amount of" built- in losses" in our assets, i. e., an excess tax basis over current fair market value, which may result in tax losses as such assets are sold. Those" built- in losses" could become significant in the future if market conditions worsen and our inventory is impaired. Net operating losses and tax credits generally may be carried forward for a 20- year period to offset future earnings and reduce our federal income tax liability. Any net operating losses created during or after our fiscal 2019 may be carried forward indefinitely; however, the loss can only be utilized to offset 80 % of taxable income generated in a tax year. Built- in losses, if and when recognized, generally will result in tax losses that may then be deducted or carried forward. However, we experienced an " ownership change " under Section 382 as of January 12, 2010. As a result of this previous " ownership change " for purposes of Section 382, our ability to use certain net operating loss carryforwards, tax credits and built- in losses or deductions in existence prior to the ownership change was limited by Section 382. We cannot predict or control the occurrence or timing of another ownership change in the future. If another ownership change were to occur, the limitations imposed by Section 382 could result in a material amount of our net operating loss carryforwards and tax credits expiring unused and, therefore, significantly impair the future value of our deferred tax assets. Our certificate of incorporation prohibits certain transfers of our common stock that could result in an ownership change. In addition, we are party to a rights agreement intended to act as a deterrent to any person desiring to acquire 4. 95 % or more of our common stock. In February 2022, our stockholders approved an extension of these protective provisions in our certificate of incorporation and the rights agreement, which as a result are scheduled to expire ~~on~~ **in** November 2025. Any extension of these protective provisions and our entry into a new rights agreement will require additional approval by our stockholders. We cannot guarantee that the requisite stockholder approvals will be obtained. In addition, neither the protective provisions nor the rights agreement ~~offer~~ **offers** a complete solution, and an ownership change may occur even if the protective provisions of our charter are extended and a new rights agreement is approved upon expiration. The protective provisions of our certificate of incorporation may not be enforceable against all stockholders and may not prevent all stock transfers that have the potential to cause a Section 382 ownership shift, and the rights agreement may deter, but ultimately may not block all transfers of our common stock that might result in an ownership change. The realization of all or a portion of our deferred income tax assets (including net operating loss carryforwards and tax credits) is dependent upon the generation of future income during the statutory carryforward periods. Our inability to utilize our limited pre- ownership change net operating loss carryforwards, tax credits and recognized built- in losses or deductions, or the occurrence of a future ownership change and resulting additional limitations to these tax attributes, could have a material adverse effect on our financial condition, results of operations, and cash flows. We could experience a reduction in home sales and revenues due to our inability to acquire and develop land for our communities if we are unable to obtain reasonably priced financing.The homebuilding industry is capital intensive and homebuilding requires significant up- front expenditures to acquire land and to begin development.Accordingly,we incur substantial indebtedness to finance our homebuilding activities.If internally generated funds are not sufficient,we would seek additional capital in the form of equity or debt financing from a variety of potential sources,including additional bank financing and / or securities offerings.The amount and types of indebtedness that we may incur are limited by the terms of our existing debt.In addition,the availability of borrowed funds,especially for land acquisition and construction financing,may be greatly reduced nationally,and the lending community may require increased amounts of equity to be invested in a project by borrowers in connection with both new loans and the extension of existing loans.The credit and capital markets have continued to experience significant volatility.If we are required to seek additional financing to fund our operations,the volatility in these markets may restrict our flexibility to access such financing.If we are not successful in obtaining sufficient capital to fund our planned capital and other expenditures,we may be unable to acquire land for our housing developments,thereby limiting our anticipated growth and community count.Additionally,if we cannot obtain additional financing to fund the purchase of land under our option agreements,we may incur contractual penalties and fees. Inefficient or ineffective allocation of capital could adversely affect our operating results and / or stockholder value. Our goal is to allocate capital to maximize our overall long-term returns. This includes ~~spending on capital projects, such as developing strategic businesses (e. g., the launch of our Gatherings ® business in 2016 to meet the needs of the~~ growing **our** ~~55 plus segment) and~~ **land** ~~acquiring other homebuilders with the potential to strengthen our industry~~ position **and growing our active communities** . In addition, from time to time we may engage in bond repurchases to reduce our indebtedness and return value to our stockholders through share repurchases. If we do not properly allocate our capital, we may fail to produce optimal financial results and we may experience a reduction in stockholder value, including increased volatility in our stock price. Risk Relating to an Investment in our Common Stock Our stock price is volatile and could decline. The securities markets in general and our common stock in particular have experienced significant price and volume volatility over the past several years. The market price and volume of our common stock may continue to experience significant fluctuations due not only to general stock market conditions, but also to a change in sentiment in the market regarding our industry, operations or business prospects. The price and volume volatility of our common stock may be affected by: • factors influencing home purchases, such as higher interest rates and availability of home mortgage loans, credit criteria applicable to prospective borrowers, ability to sell existing residences and homebuyer sentiment in general; • the operating and securities price performance of companies that investors consider comparable to us; • operating results that vary from the expectations of securities analysts and investors; • announcements of strategic developments, acquisitions and other material events by us or our competitors; and • changes in global financial markets and global economies and general market conditions, such as inflation, interest rates, commodity and equity prices and the value of financial assets. Our ability to raise funds through the issuance of equity or otherwise use our common stock as consideration is impacted by the price of our common stock. A low stock price may adversely impact our ability to reduce our financial leverage, as measured by the ratio of total debt to total capital. Continued high levels of leverage or significant increases may adversely affect our credit ratings and make it more difficult for us to access additional capital. These factors may limit our ability to implement our operating and growth plans. We experience fluctuations and variability in our operating results on a quarterly basis and, as a result, our historical performance may not be a meaningful indicator of future results. We historically have experienced, and expect to continue to experience, variability in home sales and earnings on a quarterly basis. As a result of such variability, our historical performance may not be a meaningful indicator of future results. Our quarterly results of operations may continue to fluctuate in the future as a result of a variety of both national and local factors, including, among others: • the timing of home closings and land sales; • our ability to continue to acquire additional land or secure option agreements to acquire land on acceptable terms; • conditions of the real estate market in areas where we operate and of the general economy; • inventory impairments or other material write- downs; • raw material and labor shortages; • seasonal home buying patterns; and • other changes in operating expenses, including the cost of labor and raw materials, personnel and general economic conditions.